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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 KENNETH W. MICHAEL,

7 Plaintiff,

8 v.

9 MICHAEL J. ASTRUE, Commissioner of  
10 Social Security,

11 Defendant.

Case No. 3:11-cv-05756-BHS-KLS

REPORT AND RECOMMENDATION TO  
DENY APPLICATION TO PROCEED *IN*  
*FORMA PAUPERIS*

Noted for November 25, 2011

12  
13 This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28  
14 U.S.C. § 636(b)(1) and Local Rule MJR 3 and 4. This matter comes before the Court on  
15 plaintiff's filing of an application to proceed *in forma pauperis* and a complaint to review and set  
16 aside a decision of the Social Security Administration under 42 U.S.C. § 405(g). ECF #4.  
17 Because plaintiff's application indicates he has sufficient income with which to pay the \$350.00  
18 filing fee, the undersigned recommends that the Court deny the application.  
19

20 DISCUSSION

21 The district court may permit indigent litigants to proceed *in forma pauperis* upon  
22 completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the Court has  
23 broad discretion in denying an application to proceed *in forma pauperis*. See Weller v. Dickson,  
24 314 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963).  
25

26 By requesting the court to proceed *in forma pauperis*, plaintiff is asking the government  
to incur the filing fee because he allegedly is unable to afford the costs necessary to proceed with  
REPORT AND RECOMMENDATION - 1

1 his cause of action. In his application, plaintiff indicates that he has approximately \$2,000.00 in  
2 a his checking and/or savings account and has been receiving \$1,500.00 every two weeks since  
3 March 24, 2011, in disability or workers compensation payments. Although the undersigned  
4 recognizes that \$3,000 per month does not constitute a substantial income, given that there are no  
5 other persons who are dependent upon plaintiff for support and he has an additional \$2,000.00 in  
6 funds at his disposal, it does not seem unreasonable to expect him to pay the required filing fee.

### 8 CONCLUSION

9 Because it is reasonable for plaintiff to incur the costs to proceed with this cause of  
10 action, the undersigned recommends that the Court deny his application to proceed *in forma*  
11 *pauperis*. Accordingly, the undersigned also recommends that the Court order plaintiff to pay  
12 the required filing fee within **thirty (30) days** of the Court's order.

13 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedures ("Fed. R.  
14 Civ. P.") 72(b), the parties shall have **fourteen (14) days** from service of this Report and  
15 Recommendation to file written objections thereto. See also Fed.R.Civ.P. 6. Failure to file  
16 objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474  
17 U.S. 140 (1985). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the Clerk is  
18 directed set this matter for consideration on **November 25, 2011**, as noted in the caption.

19 DATED this 8th day of November, 2011.  
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23   
24 Karen L. Strombom  
25 United States Magistrate Judge  
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